



MICHELLE LUJAN GRISHAM  
GOVERNOR

JAMES C. KENNEY  
CABINET SECRETARY

## Notification provided via E-mail

October 18, 2023

Ernest Vigil [ernestv@villageofchama.org](mailto:ernestv@villageofchama.org)  
Chama Water System  
P.O. Box 794  
Chama, New Mexico 87520

Re: Administrative Compliance Order, No. 2023-ACO-03 Chama Water System, PWS# NM3501021

Dear Ernest Vigil,

Please find attached Administrative Compliance Order No. 2023-ACO-03 issued to Chama Village of, for Chama Water System, PWS# NM3501021. Please review the Administrative Compliance Order (Order) carefully to understand what action must be taken to comply with the requirements of the Order. Chama Village of has a right to answer the allegations in the Order and request a hearing, NMSA 1978, §§ 61-33-120.E and 74-1-10.E and 20.1.5 NMAC (available at [www.env.nm.gov](http://www.env.nm.gov)).

Pursuant to the NMED Delegation Order dated March 24, 2023, the Cabinet Secretary has delegated the authority to issue Administrative Compliance Orders under the Environmental Improvement Act ("EIA"), NMSA 1978, § 74-1-10, the Drinking Water Regulations ("DW Regulations"), 20.7.10 NMAC and the Utility Operator Certification Act, NMSA 1978, § 61-33-10 to DWB Bureau Chief Joe R. Martinez.

Please note that your facility will appear on the Department's Enforcement Watch as a result of this administrative order (see: <https://www.env.nm.gov/enforcement-watch/>). Further, the Department will issue a press release to local media highlighting your public water system as appearing on this webpage. Your public water system will remain on the Enforcement Watch website as an active matter until this matter is fully resolved.

If you have any questions or need assistance, please contact Maria J. Medina, Enforcement Coordinator, at 505-629-7223 or via email at [maria.medina@env.nm.gov](mailto:maria.medina@env.nm.gov).

Respectfully,

A handwritten signature in blue ink that reads "Joe R. Martinez".

Joe R. Martinez  
Bureau Chief  
Drinking Water Bureau

cc: Compliance Officer (Electronic)  
Region 6, EPA (Electronic)  
Electronic Central File

**STATE OF NEW MEXICO**  
**SECRETARY OF ENVIRONMENT**

NEW MEXICO ENVIRONMENT DEPARTMENT  
WATER PROTECTION DIVISION,

Complainant,

No. 2023-ACO-03

v.

CHAMA VILLAGE OF,  
Respondent.

**ADMINISTRATIVE COMPLIANCE ORDER**

Pursuant to the Environmental Improvement Act (“EIA”), NMSA 1978, § 74-1-10, and the Drinking Water Regulations (“DW Regulations”), 20.7.10 NMAC, the Secretary of the New Mexico Environment Department (“NMED”), acting through the Bureau Chief of the Drinking Water Bureau with concurrence from the Water Protection Division Director of the NMED, issues this Administrative Compliance Order (“Order”) to Chama Village of (“Respondent”) to enforce the EIA and DW Regulations.

**FINDINGS**

1. The NMED is an executive agency within the government of the State of New Mexico which administers and enforces the requirements of the EIA and DW Regulations.
2. Respondent owns and operates a public drinking water system (“System”) Chama Water System, PWS# NM3501021, located in Rio Arriba County, New Mexico.
3. The System is a Community water system, as defined by Section 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.2, that regularly provides piped drinking water to approximately one five hundred seventy-three (1,573) residents and has approximately five hundred fifty (550) service connections to serve these residents.
4. Respondent, Chama Village of, is a “person” as defined by the EIA, NMSA 1978, § 74-1-3 and 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.2.

5. 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.723, requires water systems to submit a written Corrective Action Plan (CAP) no later than 45 days after receipt of the sanitary survey report, indicating how and on what schedule the system will address significant deficiencies noted in the sanitary survey or be in compliance with an approved CAP and schedule.

6. NMED issued a Notice of Violation (NOV) to Respondent on June 13, 2023, for failure to respond in writing to significant deficiencies and for failure to correct significant deficiencies identified during the March 3, 2023, sanitary survey within 45 days of receiving the report. The NOV notified Respondent of the requirement to provide public notice of the violation.

7. 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.33(a) and 141.571, requires an owner or operator of a public water system to retain records on its premises or at a convenient location near its premises.

8. NMED issued an NOV to Respondent on June 22, 2023, for failure to retain combined filter effluent turbidity data for a minimum of five (5) years and individual filter effluent turbidity data for a minimum of three (3) years. The NOV notified Respondent of the requirement to provide public notice of the violation.

9. 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.175(b)(4), a system must arrange for the conduct of a comprehensive performance evaluation (CPE) by a third party approved by the State no later than thirty (30) days after any individual filter has a measured turbidity level of greater than 2.0 NTU in two consecutive measurements taken 15 minutes apart at any time in each of two consecutive months. The evaluation must be completed and submitted to the State no later than 90 days following the exceedance.

10. NMED issued an NOV to Respondent on July 6, 2023, for failure to arrange a CPE by a third party approved by the State within the allotted timeframe. The NOV notified Respondent of the requirement to provide public notice of the violation.

11. NMED issued an NOV to Respondent on September 6, 2023, for failure to submit a CPE report within the allotted timeframe. The NOV notified Respondent of the requirement to provide public notice of the violation.

12. 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.203 and 141.31(d), requires systems to notify customers of the violation by mail or other direct delivery to each customer and any other methods as necessary to inform the public, within 30 days from the date on the original NOV and certify that the notice was published and the method of publication by submitting a completed Public Notification Certification Form to NMED within ten (10) days of completing the public notification requirements.

13. NMED issued an NOV to Respondent on September 6, 2023, for failure to notify consumers of the exceedance of maximum allowable turbidity in June 2023, for exceeding 0.3 NTU in more than 5% of the recordings in June 2023, and for failure to submit complete monthly operating report for June 2023. Public water systems must complete this notification within thirty (30) days after the system learns of the violation.

#### **VIOLATION 1**

14. Respondent is in violation of 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.723, requires water systems to submit a written Corrective Action Plan (CAP) no later than 45 days after receipt of the sanitary survey report, indicating how and on what schedule the system will address significant deficiencies noted in the sanitary survey or be in compliance with an approved CAP and schedule. Respondent failed to submit a CAP and address significant deficiencies noted in the March 3, 2023, sanitary survey within 45 days of receiving the sanitary survey report.

#### **VIOLATION 2**

15. Respondent is in violation of 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.33(a) and 141.571, requires an owner or operator of a public water system to retain records on its premises or at a convenient location near its premises. Respondent failed to retain combined filter effluent turbidity data for a minimum of five (5) years and individual filter effluent turbidity data for a minimum of three (3) years.

### **VIOLATION 3**

16. Respondent is in violation of 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.175(b)(4), a system must arrange for the conduct of a comprehensive performance evaluation (CPE) by a third party approved by the State no later than thirty (30) days after any individual filter has a measured turbidity level of greater than 2.0 NTU in two consecutive measurements taken 15 minutes apart at any time in each of two consecutive months. The evaluation must be completed and submitted to the State no later than 90 days following the exceedance. Respondent failed to arrange a CPE within 30 days after an individual filter exceeded 2.0 NTU in two (2) consecutive months and failed to submit a report within 90 days following the exceedance.

### **VIOLATION 4**

17. Respondent is in violation of 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.203 and 141.31(d), requires systems to notify customers of the violation by mail or other direct delivery to each customer and any other methods as necessary to inform the public, within 30 days from the date on the original NOV and certify that the notice was published and the method of publication by submitting a completed Public Notification Certification Form to NMED within ten (10) days of completing the public notification requirements. Respondent failed to submit to NMED a copy of the public notices within ten (10) days of notifying consumers of the exceedance of maximum allowable turbidity in June 2023, for exceeding 0.3 NTU in more than 5% of the recordings in June 2023, and for failure to submit complete monthly operating report for June 2023.

### **RETURN TO COMPLIANCE**

Based upon the foregoing, Respondent is hereby ordered to comply with the following:

18. By November 30, 2023, Respondent must comply with 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.723, and correct significant deficiencies identified during the March 23, 2023, sanitary survey.

19. By November 30, 2023, Respondent must submit documentation indicating that they can and will fully comply with 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.33(a) and 141.571 by maintaining required system turbidity data.

20. By November 30, 2023, Respondent must comply with 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.33(a) and 141.571 and submit complete turbidity data for three (3) consecutive months.

21. By November 30, 2023, Respondent must comply with 20.7.10.100 NMAC, incorporating 40 C.F.R. § 1175(b)(4) and arrange a CPE by a third party approved by the State and have the evaluation completed and submitted to the State within 60 days.

22. By October 31, 2023, Respondent must comply with 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.203 and 141.31(d), and submit a copy of the public notice notifying consumers of the exceedance of maximum allowable turbidity in June 2023, for exceeding 0.3 NTU in more than 5% of the recordings in June 2023, for failure to submit complete monthly operating report for June 2023, and a completed Public Notification Certification Form.

23. Submittals made pursuant to paragraphs 18 through 22 of this Order shall be sent by certified mail with return receipt requested to the following:

Maria J. Medina, Enforcement Coordinator  
New Mexico Environment Department  
Drinking Water Bureau  
P.O. Box 5469  
Santa Fe, NM 87502-5469

Or

Email: [maria.medina@env.nm.gov](mailto:maria.medina@env.nm.gov)

**If respondent fails to comply with the requirements of paragraphs 18 through 23 of this order, the Secretary of NMED may assess civil penalties not to exceed one thousand dollars (\$1,000) for each instance of noncompliance with this order.**

## **RIGHT TO ANSWER AND REQUEST A HEARING**

Pursuant to NMSA 1978, §§ 61-33-120.E and 74-1-10.E and 20.1.5 NMAC (available at [www.env.nm.gov](http://www.env.nm.gov)), Respondent has the right to request a hearing. If Respondent (a) contests any material or legal matters upon which this Order is based; (b) contends that Respondent is entitled to prevail as a matter of law; or (c) otherwise contests the appropriateness of this Order, Respondent may mail or deliver within thirty (30) days of receipt of this Order a written Request for Hearing at the following address:

Hearing Clerk  
New Mexico Environment Department  
P.O. Box 5469  
Santa Fe, New Mexico 87502

Respondent must attach a copy of this Order to the Request for Hearing. 20.1.5.200.A(2)(d) NMAC.

The Request for Hearing shall include an Answer. Respondent's Answer shall clearly and directly admit, deny or explain each of the factual allegations contained in this Order with regard to which Respondent has any knowledge. Where Respondent has no knowledge of a particular factual allegation, Respondent should so state, and the Respondent may deny the allegation on that basis. Any allegation in this Order not specifically denied shall be deemed admitted. 20.1.5.200.A(2)(a) NMAC.

Respondent's Answer shall also include any affirmative defenses upon which Respondent intends to rely. Any affirmative defense not asserted in the Answer, except a defense asserting lack of subject matter jurisdiction, shall be deemed waived. 20.1.5.200.A(2)(b) NMAC.

Respondent's Answer shall be signed under oath or affirmation that the information contained therein is to the best of the signer's knowledge believed to be true and correct. 20.1.5.200.A(2)(c) NMAC.

## **FINALITY OF ORDER**

Pursuant to NMSA 1978, §§ 61-33-10.E and § 74-1-10.E, this Order shall become final unless the Respondent files a Request for Hearing and Answer with the Hearing Clerk within thirty (30) days of receipt of this Order.

## **SETTLEMENT CONFERENCE**

Whether or not a Request for Hearing has been filed, Respondent may confer with the NMED concerning settlement of this Order. The NMED encourages settlement consistent with the provisions and objectives of the EIA and the DW Regulations. Settlement discussions neither extend the thirty (30) day deadline for filing a Request for Hearing and Answer nor alter the deadline imposed for compliance with the mandate of this Order. Settlement discussion may be pursued as an alternative to, and simultaneously with, the hearing proceedings. Respondent may appear at the settlement conference alone or accompanied or represented by legal counsel.

A Stipulated Final Order shall finalize any settlement reached by the parties. The Stipulated Final Order must resolve all issues raised in this Order, shall be final and binding on all parties, and may not be appealed.

To explore the possibility of settlement in this matter, contact Maria J. Medina, Drinking Water Bureau, New Mexico Environment Department, P.O Box 5469, Santa Fe, New Mexico 87502-5469, (505) 629-7223.

## **COMPLIANCE WITH OTHER LAWS**

Compliance with the requirements of this Order does not relieve Respondent of the obligation to comply with all other applicable laws and regulations. This Order does not constitute a waiver, suspension, or modification of the requirements of 20.7.10 NMAC and 20.7.4 NMAC which remain in full force and effect. Issuance of this Order is not an election by the NMED to forgo any civil or criminal action otherwise authorized under the EIA.

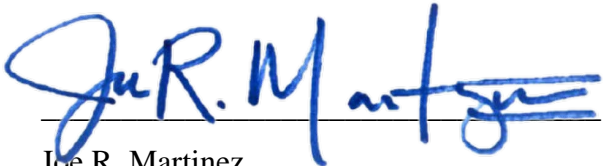


**TERMINATION**

This Order shall terminate when all requirements of this Order have been met and the NMED provides notification of termination in writing, or when the Secretary approves a Stipulated Final Order.

**DELEGATION OF SIGNATORY AUTHORITY**

Pursuant to the NMED Delegation Order dated March 24, 2023, the Cabinet Secretary has delegated the authority to issue Administrative Compliance Orders under the Environmental Improvement Act (“EIA”), NMSA 1978, § 74-1-10, the Drinking Water Regulations (“DW Regulations”), 20.7.10 NMAC and the Utility Operator Certification Act, NMSA 1978, § 61-33-10 to the Bureau Chief of the Drinking Water Bureau with concurrence from the Water Protection Division Director.



Joe R. Martinez  
Bureau Chief of the Drinking Water Bureau  
P.O Box 5469  
Santa Fe, New Mexico 87502-5469

October 18, 2023

Date